



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
PO BOX 1673  
RANCHO CORDOVA CA 95812-1673  
TELEPHONE: (916) 845-3752  
FAX NUMBER: (916) 845-5267

**CALIFORNIA TAX SHELTER RESOLUTION INITIATIVE  
ELECTION TO PARTICIPATE IN NOTICE 2006-1**

Once you or your authorized representative completes and signs FTB 638, *California Tax Shelter Resolution Initiative - Election to Participate in Notice 2006-1*, the completed form serves as an agreement between you and the Franchise Tax Board. Please see the instructions on Side 2 for participation requirements and other information.

**Complete this form and file it along with a copy of IRS Form 13750, Election to Participate in Announcement 2005-80 Settlement Initiative, including all schedules (including, but not limited to, Schedules A and B), for each transaction for which you are making an Election to Participate under the California Initiative, no later than March 31, 2006.**

Taxpayers who fail to provide the required information with form FTB 638 will **not** be eligible to participate in the California Initiative. The Franchise Tax Board may request additional information that must be submitted by the time provided in those requests, including a California amended return reversing the transaction(s) for which you are making an Election to Participate under the California Initiative.

<p><b>1. Name.</b> Provide us with your name and, if you file a joint tax return, your spouse's name.</p>	<p><b>2. Your Taxpayer Identification Number.</b> You must provide your California Corporation Number, Employer Identification Number or Social Security Number. For Privacy Act Notice, get form FTB 1131.</p> <p>California Corporation Number: _____</p> <p>EIN: _____ - _____</p> <p>SSN: _____ - _____ - _____</p>
<p><b>3. Address</b> (Street, City, State, ZIP code)</p>	<p><b>4. Telephone number</b> (____) ____ - ____</p> <p><b>5. Fax number</b> (____) ____ - ____</p>

**6. PLEASE SIGN BELOW**

I declare, under penalty of perjury of the laws of the State of California, that I examined this form, including any accompanying statements and attachments, and the information contained therein is true, correct, and complete. I am properly authorized to execute this form.

I am the taxpayer identified in this form and this declaration is based upon my personal knowledge.

I am the authorized representative of the taxpayer(s) identified in this form and this declaration is based upon all information I have obtained regarding the matter(s) for which this election is submitted.

Your name (*please print*): \_\_\_\_\_ Spouse's name (*please print*): \_\_\_\_\_

Your signature: \_\_\_\_\_ Spouse's signature: \_\_\_\_\_

Date: \_\_\_\_\_ Telephone number: (\_\_\_\_) \_\_\_\_\_ Date: \_\_\_\_\_ Telephone number: (\_\_\_\_) \_\_\_\_\_

Note: An Election to Participate signed by a representative or an attorney-in-fact must be accompanied by a completed Power of Attorney (form FTB 3520) authorizing such a signature.

For Privacy Act Notice, get form FTB 1131.

# **INSTRUCTIONS FOR COMPLETING FTB 638 (California Tax Shelter Resolution Initiative - Election to Participate in FTB Notice 2006-1)**

---

## **A) GENERAL INFORMATION**

The California Tax Shelter Resolution Initiative (California Initiative) is for taxpayers eligible to participate in, and who fully complete the requirements of, the Internal Revenue Service (IRS) Settlement Initiative described in Announcement 2005-80 and have underreported California tax liabilities due to transactions listed in Section 3 of IRS Announcement 2005-80.

California taxpayers satisfying all requirements of the IRS Settlement Initiative and the California Initiative can avoid all penalty assessments except the accuracy-related penalty, which will be assessed at the percentage rate specified in Section 3 of IRS Announcement 2005-80. California taxpayers can also claim transaction costs paid, including professional and promoter fees, as an ordinary loss, provided these amounts have not been previously refunded to the taxpayer.

## **VOLUNTARY COMPLIANCE INITIATIVE TAXPAYERS**

Taxpayers that participated in the Voluntary Compliance Initiative, pursuant to California Revenue & Taxation Code (RTC) section 19752(b), commonly referred to as Option 2, have a right to file a claim for refund and appeal.

If you participated in the IRS Settlement Initiative with respect to that transaction, you may also, if timely requested, participate in the California Initiative. However, to satisfy the requirements of the California Initiative, you will be required to enter into a closing agreement waiving your right to file a claim for refund or an appeal for any amounts paid under the California Initiative and issues for which you elect to participate in this initiative.

## **B) HOW TO PARTICIPATE**

To participate in the California Initiative you must fully complete the following requirements:

1. File an irrevocable Election to Participate in the California Initiative (form FTB 638) with the Franchise Tax Board not later than March 31, 2006, **and** attach a copy of IRS Form 13750, Election to Participate in Announcement 2005-80 Settlement Initiative, including all schedules (including, but not limited to, Schedules A and B), for each transaction for which you are making an Election to Participate under the California Initiative.

**Taxpayers who fail to provide the required information with form FTB 638 will not be eligible to participate in the Initiative.**

2. File a California amended return reversing the transaction(s) for which you are making an Election to Participate under the California Initiative.
3. Execute a closing agreement with the Franchise Tax Board, permanently resolving all tax, interest, and penalty consequences associated with your participation in any transaction listed in Announcement 2005-80. Under this agreement, you will not be able to file a claim for refund or appeal for any amounts paid under the California Initiative and issues for which you elect to participate in this initiative. In connection with the preparation of the closing agreement, the Franchise Tax Board may request additional information and documents relating to the transaction, such as marketing materials and tax opinion letters, which will be required to be submitted at the time provided in those requests.
4. Provide the Franchise Tax Board with a copy of the fully executed IRS closing agreement within 30 days of signing the IRS closing agreement.
5. Pay in full all taxes, interest and penalties due under the terms of the closing agreement at the time the closing agreement is returned to the Franchise Tax Board. If you are unable to make full payment, you may request an arrangement to pay under an installment agreement. For more information, get the FTB 3567 Booklet from our website at [www.ftb.ca.gov](http://www.ftb.ca.gov).

## **C) WHERE TO FILE**

Send your completed form FTB 638 and all the requested documents by mail or fax.

### **Mail**

TAX SHELTER RESOLUTION INITIATIVE MS F-385  
FRANCHISE TAX BOARD  
PO BOX 1673  
SACRAMENTO CA 95812-1673

### **Fax**

(916) 845-5267

## **D) ADDITIONAL INFORMATION**

To get more information about the California Tax Shelter Resolution Initiative get FTB Notice 2006-1 from our website at [www.ftb.ca.gov](http://www.ftb.ca.gov).

### **Assistance for persons with disabilities:**

We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments please call TTY/TDD (800) 822-6268.